

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

EARL TAYLOR,)	
)	
Plaintiff,)	
)	
vs.)	CV 05-PT-1083-M
)	
PRISON HEALTH CARE, INC., and)	
LOTTIE WILEY,)	
)	
Defendants.)	

MEMORANDUM OF OPINION

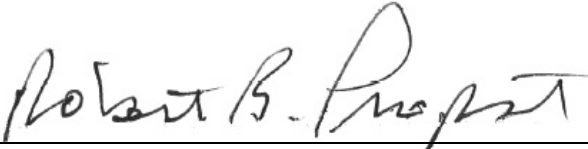
The magistrate judge filed a report and recommendation on October 19, 2005, recommending that this action be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). The plaintiff filed objections to the report and recommendation on November 7, 2005.¹

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is

¹ In his objections, the plaintiff cites *Fruit v. Norris*, 905 F.2d 1147 (8th Cir. 1990) and *Wallis v. Baldwin*, 70 F.3d 1074 (9th Cir. 1995). However, in those cases, the plaintiffs alleged that the defendants had knowingly placed them in inherently dangerous work environments and had ignored requests for protective gear. There are no allegations in this instance alleging that the defendants knowingly placed the plaintiff in undue danger or that they ignored requests for protection from that danger. There are simply no facts alleged in the plaintiff's complaint which rise to the level of a constitutional claim. As stated in the report and recommendation, the plaintiff may pursue any tort claims in state court.

ACCEPTED. Accordingly, the complaint is due to be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b). A Final Judgment will be entered.

DATED this 17th day of November, 2005.



ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE